

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of SAMUEL LEE, BRANDON LEE,  
and BRANDI LEE, Minors.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
May 4, 2006

Petitioner-Appellee,

v

SAMUEL EARL LEE,

Respondent-Appellant.

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No. 266687  
Bay Circuit Court  
Family Division  
LC No. 05-008705-NA

Before: White, P.J., and Fitzgerald and Talbot, JJ.

MEMORANDUM.

Respondent appeals as of right from the order of the trial court terminating his parental rights to his minor children pursuant to MCL 712A.19b(3)(g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent contends that the trial court erred in finding that clear and convincing evidence supported termination of his parental rights pursuant to MCL 712A.19b(3)(g). Specifically, respondent argues that there was no evidence that he failed to provide proper care and custody for the children. We disagree. In the approximately eight years since his younger children had been born, respondent had spent all but approximately 18 months incarcerated and thereby unavailable to parent his children. While incarcerated, respondent did not successfully plan for the care of his children beyond leaving them with their mother, who herself was a drug user and routinely incarcerated. When not incarcerated, respondent did not provide for the children financially and instead engaged in drug use and other criminality. Though the children were placed with relatives occasionally, they were also frequently placed in foster care because of their parents' failure to provide adequate care and custody for the children. The trial court accurately noted that respondent's past performance is indicative of what might be expected in the future. We also reject respondent's argument that petitioner was obligated to provide services to him directed toward reunification after they amended their petition seeking termination of his parental rights. Services are not mandated in all situations. *In re Terry*, 240 Mich App 14, 26, n 4; 610 NW2d 563 (2000).

The trial court, therefore, did not err in finding that the statutory grounds for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). For the same reasons, the trial court did not err in determining that the children's best interests did not preclude termination of respondent's parental rights. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Helene N. White  
/s/ E. Thomas Fitzgerald  
/s/ Michael J. Talbot